

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO**

In re:

Kristel R. Luna
Peter Simon Luna

Debtors

Case No. 08-11422-s7

MOTION FOR RELIEF FROM STAY AND TO ABANDON PROPERTY

U.S. Bank National Association, as Trustee, on behalf of the holders of the Adjustable Rate Mortgage Trust 2007-1, Adjustable Rate Mortgage-Backed Pass-Through Certificates, Series 2007-1 ("Creditor"), by and through its undersigned counsel, moves the Court for an order for relief from the automatic stay imposed by 11 U.S.C. §362(a) pursuant to 11 U.S.C. §362(d) to allow Creditor, its successors, nominees, assigns and/or real party in interest, and any and all holders of all liens against the subject property to proceed against the Debtors and/or the real property on which Creditor holds a mortgage, and to exercise its remedies under its note and mortgage and, pursuant to §554(b), for an order that the subject property is no longer property of the bankruptcy estate.

As grounds for its Motion, Creditor states:

1. Debtors are indebted to Creditor pursuant to a Promissory Note secured by a Mortgage of which Creditor is the current holder. Creditor claims a valid lien and security interest through this Promissory Note and Mortgage, which was recorded in the County and State where the property is located.

2. This debt is secured by real property described in said Mortgage as **2404 Rozinante Drive Northwest, Albuquerque, NM 87104**, and further described as:

Lot numbered Two (2) in block lettered "C" of the Plat of THE MEADOWS ON RIO GRANDE UNIT ONE, Albuquerque, New Mexico, as the same is shown and

designated on the plat of said subdivision filed in the office of the County Clerk of Bernalillo County, New Mexico, on July 8, 1993 in Plat Book 93C, folio 194.

3. Creditor requests that the automatic stay with respect to the above-described property be terminated pursuant to 11 U.S.C. § 362(d)(1) or (2) and §521(a)(2).
4. The Debtors are in arrears to the Creditor thirteen monthly payments (June 1, 2007 through June 1, 2008) on the Note and Mortgage, plus applicable foreclosure and bankruptcy attorney fees and costs, and Creditor is not adequately protected.
5. Concurrence from the Debtors and the Trustee was sought on June 3, 2008, but was not received from either party as of June 4, 2008.
6. Trustee Michael J. Caplan has not filed his Report of no Distribution in this bankruptcy. Upon information and belief, the property is of inconsequential value to the bankruptcy estate.
7. Creditor is entitled to its reasonable attorney fees in the amount of \$650.00 and costs in the amount of \$182.50 for its Motion for Relief from Stay and to Abandon Property pursuant to the terms of the Note and Mortgage, but only as permitted by the Bankruptcy Code.

WHEREFORE, U.S. Bank National Association, as Trustee, on behalf of the holders of the Adjustable Rate Mortgage Trust 2007-1, Adjustable Rate Mortgage-Backed Pass-Through Certificates, Series 2007-1, its successors, nominees, assigns and/or real party in interest, and any and all holders of all liens against the subject property are entitled to relief from the automatic stay imposed by 11 U.S.C. §362 (a) for the purpose of allowing the enforcement of the note and mortgage or deed of trust terms by commencing or proceeding with the appropriate action against Debtors and/or the property, and an order abandoning the subject property, and for such other relief as the Court deems just and proper.

CASTLE MEINHOLD & STAWIARSKI

s/ filed electronically

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07-1458/Luna, Kristel R.